

From: Joe Beach
To: Microsoft ATR
Date: 11/17/01 2:27pm
Subject: ridiculous settlement

Hello,

I have read about the settlement that you reached with Microsoft, and I was wondering just how much Microsoft paid you to cave in to them in such a flagrant manner.

How is it that a department with the word "Justice" in its name, comes to an agreement with a company that has been legally found to be an abusive monopoly that has unfairly destroyed its competition, and that agreement has no punitive damages? Wouldn't it make sense to fine the company to remove the profits that it has made illegally? Wouldn't it make sense to return some of that ill-gotten gain to its victims? Wouldn't that be, in normal circumstances, considered justice?

When a criminal is prosecuted and FOUND GUILTY, the prosecution does not customarily then ask the criminal if he would please, if it is okay with him, and if he doesn't have any better idea or have something else he'd prefer to do, go to jail now. This is no different. Microsoft does not get to decide the terms of their punishment. They have been found guilty of a crime. They must accept a fair punishment handed down by the court. The court and the prosecution does not need to worry about whether Microsoft will be upset with the punishment. In fact, if the punishment is reasonable, I would EXPECT Microsoft to be upset with it. The fact that Bill Gates has stated that he is happy with this settlement should be a big sign that the settlement has no teeth, and will not prevent Microsoft from continuing to use its market position to prevent competition.

A settlement with Microsoft should have several components. Some of them are:

1. Fines to remove the profits that Microsoft has illegally gained from its monopoly abuses.
2. Compensation to the victims of its monopoly abuses.
3. Provisions barring Microsoft from using its license terms to prevent computer manufacturers from selling computers with multiple operating systems pre-installed.
4. Requirements that Microsoft make its data file formats public, so other software makers can be assured that they will be able to make interoperable products. This is the major barrier to entering the office software market.

Any settlement that does not at least have these terms is a sellout to Microsoft, and makes it appear that the current administration is in Microsoft's pocket. Most of the computing world knew that Microsoft was attempting to delay the legal process in the hope that a Republican would become president and end the prosecution against them. It appears, though, that the Bush administration decided that would be too blatant, and so instead had the prosecutors offer Microsoft a ridiculously lenient settlement instead. These are the type of sell-out actions that undermine people's confidence in the legal system.

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